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Thursday
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Part IV

Environmental Protection Agency

Air Pollution Control, Nitrogen Oxides Emission Standards; Application for Waiver of 1981–82 Model Year Light-Duty Diesel Motor Vehicles and Engines

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1610-2]

Application for Waiver of the 1981-82 Model Year Oxides of Nitrogen Emission Standard for Light-Duty Diesel Motor Vehicles—Third Decision of the Administrator

I. Introduction

This is the third decision I have issued under section 202(b)(6)(B) of the Clean Air Act, as amended (Act)[1] regarding applications from automobile manufacturers for waiver of the 1.0 gram per mile (GPM) oxides of nitrogen (NO_x) emission standard scheduled to apply to 1981 and subsequent model year light-duty diesel vehicles and engines.[2]

As the introductions to the first two diesel NO_x waiver decisions explains, section 202(b)(1)(B) of the Act establishes the standards applicable to NO_x emmissions from light-duty vehicles and engines manufactured during and after model year 1977.[3] This section requires the Administrator of the Environmental Protection Agency (EPA) to promulgate regulations containing standards which provide that NO_x emissions may not exceed 2.0 gpm for model years 1977 through 1980, and may not exceed 1.0 gpm for 1981 and later model years.

Section 202(b)(6)(B) of the Act provides that, upon the petition of a manufacturer, the Administrator may waive the 1.0 gpm NO_x standard to a level not to exceed 1.5 gpm, for any class or category of diesel-powered light-duty vehicles and engines manufactured during the four model year period beginning with model year 1981. In order to obtain a waiver, the manufacturer must show that the waiver is necessary to permit the use of diesel engine technology in the class or category of vehicles or engines for which it has requested a waiver. Moreover, the Administrator must determine:

(i) That such waiver will not endanger public health,

(ii) That such waiver will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the Energy Policy and Conservation Act ("EPCA"), and

(iii) That the technology has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under EPCA at the expiration of the waiver.[4]

On April 8, 1980, I received an application from Isuzu Motors Limited (Isuzu) for waiver of the 1981 and 1982 1.0 gpm NO_x standard for its 1.8 liter (L) diesel engine family. EPA held a public hearing on this application on May 8, 1980. The transcript of this hearing, the materials submitted by the applicant in its waiver request, and all other information upon which I have based my decision on this set of waiver requests, including the technical appendix cited below, are included in EPA Public Docket EN-80-6.[5]

II. Summary of Decision

A. Waiver Applications Denied

The application which I have decided to deny covers the following engine family for the model years specified:

Waiver Applications Denied

Manufacturer	Model year	Engine family
Isuzu	1981, 1982	1.8

As discussed more fully below, I have concluded that Isuzu's application covering this engine family has failed to meet all the statutory criteria for receiving a waiver for the years noted. Specifically, Isuzu failed to establish that the waiver is necessary to permit the use of diesel engine technology for its 1.8L engine family.

III. Discussion

A. Assessing Need for Waivers

Section 202(b)(6)(B) of the Act expressly assigns to an applicant the burden of showing that the waiver is necessary to permit the use of diesel engine technology in a particular class or category of vehicles or engines. The major issue I must address under this criterion is whether the applicant has shown that unless I grant the waiver, the engine family which the waiver request covers will not be able to meet applicable emission standards, even with the addition of any device, equipment or aspect of diesel engine technology presently available or expected to become available during the period covered by the waiver request.[6]

1. Decision Methodology

The methodology this decision employs to assess an engine family's need for a waiver is the same as the methodology I used in my first two consolidated diesel NOx waiver decisions.[7] This methodology includes an evaluation of the effect of NOx emission controls on emissions of particulate matter. This evaluation relies on information supplied by Isuzu in this proceeding, and by parties commenting in the diesel particulate rulemaking proceedings,[8] as well as on other information contained in the record for this decision.

2. Isuzu's Application

Isuzu has reached a stage in its development of NOx emission controls at which it has narrowed the range of strategies it contemplates employing to meet the applicable emission standards[9] to, at most, a few alternative systems to support its contention that a waiver is necessary to permit the use of diesel technology for its 1.8L engine family. Isuzu has provided descriptions of the systems it has been considering in efforts to meet 1981 and later model year emission standards.

Isuzu has concentrated its development efforts on the following two NOx emission control techniques: engine modification, with the emphasis of fuel injection timing adjustements and combustion chamber redesign, and exhaust gas recirculation (EGR). Esuzu stated that engine modifications offered some promise of achieving the 1.0 gpm NOx standard, but it also asserted that the engine modifications resulted in a NOx/hydrocarbon (HC) tradeoff that made simultaneous attainment of the statutory HC and NOx standards more difficult.[10] Isuzu also noted that in

[1] 42 U.S.C. 7521(b)(6)(B) (Supp. I 1977).

[2] The first consolidated decision was published at 44 FR 5480 (January 23, 1980) (hereinafter "Orig. decision"). The second consolidated decision was published at 45 FR 34718 (May 22, 1980) (hereinafter "Second decision").

[3] 42 U.S.C. 7521 (b)(1)(B) (Supp. 1 1977). See the first diesel NO_x waiver decision for a discussion of the statutory history leading up to this provision. Orig. decision at 5480, n.1.

[4] For a discussion of the Congressional purpose behind this provision, see the discussion accompanying notes 2 and 3 of my original decision at 5480. EPA published guidelines for the submission of applications under this waiver provision at 43 FR 30341 (July 14, 1978) (hereinafter "Guidelines").

[5] EPA Public Docket EN-80-6 can be found in EPA's Central Docket Section, Gallery I, 401 M St., S.W., Washington, D.C. 20460. Copies of materials in the docket, including the technical appendix, may be obtained by writing to this address at Mail Code (A-130).

[6] Guidelines, at 30342. Beginning in the 1981 model year, applicable statutory standards will be 0.41 gpm hydrocarbons (HC), 3.4 gpm carbon monoxide (CO), and 1.0 gpm NOx. Beginning in the 1982 model year, the light-duty diesel vehicle particulate standard of 0.6 gpm takes effect. That standard becomes 0.2 gpm as of the 1985 model year. 45 FR 14496 (March 5, 1980).

[7] For a more complete discussion of the methodology employed, see Orig. decision at 5484-5485.

[8] EPA Public Docket No. OMSAPC-78-3.

[9] See footnote 6.

[10] Isuzu Motors Limited Application for Waiver of the NOx Emission Standards for Light-Duty Diesel

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comparison to 1981 durability vehicle calibrations, certain engine modifications adversely affected vehicle performance characteristics, with increased smoke emission, cold startability difficulties, or idling noise.[11]

As a result of the difficulties Isuzu perceived in utilizing engine modifications as its primary method of NOx control, Isuzu stated that it has shifted the emphasis of its efforts to developing EGR systems which it now considers its primary NOx control strategy.[12] According to Isuzu, its EGR systems are very effective in meeting the 1.0 gpm NOx standard, but they create engine durability difficulties.[13] Isuzu, therefore, does not plan to use EGR emission control systems on its 49-state vehicles until model year 1983, although it does plan to market vehicles equipped with EGR systems in its limited California production in the 1982 moel year.[14]

For the 1981 model year, the analysis in Appendix A projects that vehicles in this engine family without EGR NOx control systems could certify at a 1.0 gpm NOx standard by incorporating the currently available technological improvement of advanced injection timing.[15] As stated in my first waiver decision, the technical analysis assesses the ability of an engine family to meet applicable exhaust emission standards in the 1981 model year for all three regulated pollutants.[16] Thus, my determination that vehicles in this engine family are capable of certifying at a 1.0 gpm NOx standard also relies on the results of the technical analysis which indicates that these vehicles can meet the statutory standard for HC and carbon monoxide (CO) as well. Although the tradeoff in NOx/HC control asserted by Isuzu was noted, it was not severe enough to prevent these vehicles from being capable of simultaneously achieving both the NOx and HC standards when the factor for injection timing was applied.[17]

Isuzu also asserted that engine modifications, including injection timing adjustments, caused adverse vehicle performance characteristics.[18] The difficulties Isuzu noted, however, generally are associated with injection timing retard adjustments, not with an injection timing advance similar to that of the factor applied.[19] The data Isuzu submitted did, in fact, relate only to performance characteristics associated with injection timing retard adjustments. Thus, there is no evidence to establish that this engine family will encounter significant performance difficulties when injection timing advance is applied.

Additionally, Isuzu stated that this engine family needs a waiver of the 1.0 gpm NOx standard in order for Isuzu to have adequate confidence that production vehicles of this engine family would meet applicable NOx emission requirements.[20] The design target data which Isuzu has submitted to support its position do not necessarily show that without a waiver of up to 1.5 gpm this engine family will not be able to meet applicable NOx emission requirements in production. Specifically, Isuzu has submitted no data indicating what design targets might be required to safely meet the 1.0 gpm NOx standard in production for a vehicle of this engine family equipped with a NOx control system incorporating an injection timing advance adjustment.[21] Thus, I cannot conclude that vehicles of this engine family could not certify to 1.0 gpm and meet this standard in production as projected by our technical analysis.

My conclusion on this matter is the same for the 1982 model year. Specifically, the technology available to Isuzu's 1.8L engine family to meet the 1.0 gpm NOx standard in the 1981 model year will still be available in the 1982 model year. As a result, I am denying Isuzu's request for waiver of the 1981 and 1982 model year NOx standard for its 1.8L diesel engine family.

B. Endangerment to Public Health

According to the express terms of the statute, there is no need for me to determine whether waiver applications covering engine families for which applicants failed to establish the unavailability of effective control technology meet any of the remaining statutory criteria in order for me to deny these applications. The Act requires me to deny waiver applications where an applicant has failed to meet any one of the criteria, regardless of whether such applicant could meet the remaining criteria. Nevertheless, I will address these issues briefly in the course of discussing the remaining criteria.

My main health concern in these proceedings relating to emissions from diesel engines is over potential increased emissions of diesel particulates and focuses on the potential for an increase in the incidence of respiratory ailments, and the potential that organic components of the diesel particulates are carcinogenic.[22] These concerns warrant action, where appropriate, that would minimize particulate emissions from light-duty diesels.

It is also undisputed that the projected increase in diesel light-duty vehicle production will increase ambient total suspended particulates and consequently human exposure to respirable particulates.[23] This fact underscores my concern for action minimizing particulate emissions from light-duty diesels.

In my first two consolidated decisions, I noted that to the extent that waivers are granted, the applicants will be able to market diesel vehicles that emit more particulates than would

Footnotes continued from last page
Engines, dated April 1, 1980 (hereinafter "Isuzu App.") 1–3; transcript of May 8, 1980 Public Hearing on Isuzu NOx Waiver Application (hereinafter "Tr.") 12.

[11] Isuzu App., p. I–3, II–83, II–84; Tr. 12.

[12] Isuzu App., p. I–4; Tr. 12.

[13] Isuzu has submitted informtion showing that its EGR–equipped vehicles exhibit what it considers unacceptable amounts of camshaft and ring wear, valve seat dents, and inlet port carbon accumulations. Isuzu App., I–4, II–22, II–27, II–117 through 121; Tr. 29, 36. Although design modifications have resulted in some progress towards correcting these problems, Isuzu still considers the difficulties significant enough to warrant a cautious approach with the use of EGR. Tr. 23, 25, 31–32.

[14] Tr. 22.

[15] Isuzu's preferred 1981 calibration for injection timing is 11 degrees. The factor for injection timing employs a 14 degree setting; a three degree advance. See Appendix A, § IV. The factor was developed using exhaust emissions data provided by Isuzu in its application. See Isuzu App., B–15–1.

[16] Orig. decision at 5484.

[17] See Appendix A, Table II–2, § II for the exact passing percentages for each pollutant for this engine family.

[18] See footnote 13.

[19] Appendix A, § IV.

[20] Isuzu submission at May 8, 1980 public hearing.

[21] Isuzu stated that it calculates a low-mileage design target for a system to meet in conjunction with a given emission standard based in part on the emission value mean and likely variability demonstrated by low-mileage tests on vehicles using that system. Isuzu submitted low-mileage emission data, but only on prototype vehicles not employing injection timing adjustments similar to that of the applied factor. Thus, the emission value mean and likely variabilities associated with those data would not be representative of emission characteristics of vehicles using the available able technological improvement which could enable this engine family to meet the 1.0 gpm NOx standard in production. See Isuzu submission at May 8, 1980 public hearing.

[22] Orig. decision at 5489; second decision at 34722. Although there is no current definitive epidemiologic evidence establishing cancer risk from exposure to diesel particulates, the uncertainty surrounding the potential health risk posed by diesel particulates warrants a cautious approach in regulating the vehicles which produce them. See discussion in Orig. decision at 5490. Moreover, in my first two waiver decisions I concluded that the impact on ambient NOx levels and the projected annual decrease in ambient NO_x levels would not be significant. However, to the extent that I can avoid permitting any additional increase in NOx emissions by denying the waiver, it is no less protective of the public health to do so insofar as that pollutant is concerned. See Orig. decision at 5488–89; second decision at 34722.

[23] Diesel-powered vehicles emit particulates at a far greater rate than catalyst-equipped gasoline-powered vehicles. Orig. decision at 5489–5490; second decision at 34722.

gasoline-powered vehicles. However, my assessment of the risk posed by these emissions must be made in light of the potentially greater risk posed by the particulate emission levels that might result from waiver denial.[24] If I deny a waiver, an applicant may attempt to manufacture the diesels and successfully certify them in compliance with the 1.0 gpm NOx standard. As part of an all-out effort to market vehicles complying with a 1.0 gpm NOx standard a manufacturer might decide to incorporate technology that places upward pressure on particulate emissions.[25] This is the type of health risk I sought to avoid in my first two decisions.

In those decisions there was a substantial risk that the applicants would employ EGR, or higher rates of EGR, to attempt to achieve compliance with a 1.0 gpm NOx standard, thus causing upward pressure on particulate emission which could result in total particulate emissions being greater than if the waivers were granted. My decisions were based on this fact, and the fact that granting NOx waivers for those applicants to levels above 1.0 gpm would probably preclude the need for those technologies that placed upward pressure on particulates.

Isuzu indicated that it has already begun its marketing program in the U.S. for is diesel vehicles, including the establishment of a new dealer network.[26] Moreover, Isuzu has recently formed a joint venture in California with a leading Japanese trading company, C. Itoh & Co., Ltd., to ensure successful distribution of these vehicles. While Isuzu has a strong incentive to attempt to certify and market its diesels even without a waiver, the likelihood is significantly less than Isuzu will choose to produce EGR-equipped vehicles than that it will employ injection timing advance adjustments similar to the factor previously mentioned because Isuzu has several disincentives against choosing the former alternative.

The injection timing advance adjustment is a relatively minor, inexpensive calibration change that is currently available to Isuzu without additional major development work.[27] On the other hand, to mass produce EGR-equipped vehicles would involve considerable time and expense with no guarantee that these vehicles would be ready by the 1981 model year. Moreover, Isuzu has submitted data indicating that the remaining durability problems raise at least some doubt regarding whether Isuzu will be capable of producing EGR-equipped vehicles with acceptable durability characteristics even on a limited basis for the California market in the 1982 model year.[28] To resolve the remaining durability problems by model year 1981, Isuzu would have to incur the costs associated with accelerating its research and development program almost two years. The information submitted by Isuzu indicates it does not consider this a viable alternative.

EPA's analysis of Isuzu's data for its non-EGR equipped vehicles shows these vehicles emit significantly less particulates than do the EGR-equipped vehicles.[29] Since the disincentives for Isuzu to utilize EGR-equipped vehicles to meet the 1.0 gpm NOx standard are so great, if Isuzu chooses to produce diesels it is quite likely that even without the waiver Isuzu will utilize the injection timing advance adjustment which I have no evidence will place any upward pressure on particulate emissions.[30]

As a result, the considerations that led me to conclude in my first two decisions that granting a waiver in certain cases would be more protective of the public health, are not present here.[31]

C. Fuel Economy and Long-Term Air Quality Benefit

Fuel economy and long term air quality considerations are contained in the second and third criteria of section 202(b)(6)(B).[32] I conclude that Isuzu's engine family will be capable of meeting or bettering the fuel economy standards both in the short and long term even if Isuzu applies the factor for injection timing as a result of the waiver denial.[33] I also conclude that Izusu's engine family has the capability for long term air quality benefit.[34]

D. Final Decision

Section 202(b)(6)(B) of the Act grants me the authority to waive the statutory standard of 1.0 gpm NOx and to prescribe interim standards which provide that NOx emissions may not exceed 1.5 gpm for any class or category of diesel light-duty vehicles or engines manufactured during model years 1981, 1982, 1983, and/or 1984 which meet the statutory waiver criteria. Based upon the foregoing discussion I am denying the requested waiver of the 1.0 gpm NOx standard for Isuzu's 1.8L engine family, for model years 1981 and 1982.

Dated: September 25, 1981.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

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[24] Orig. decision at 5490; second decision at 34722.

[25] Since the 0.6 gpm particulate standard does not take effect until 1982 (see footnote 6) a manufacturer could arguably increase the EGR rate in its 1981 model year diesel vehicles, thereby lowering the NOx emissions from those vehicles below the 1.0 gpm standard, without concerning itself with violating any particulate standard. Moreover, the particulate standard I promulgated for the 1982 model year is a technology-based standard that reflects the greatest degree of particulate emission reduction achievable through the application of technology which I have determined will be available for a given model year, considering lead time and other constraints. 42 U.S.C. 7521(a)(3)(A)(iii). An upward pressure on particulate emissions from increasing the EGR rate still could present a risk to the public health, even though the increse in particulate emissions would not cause a manufacturer to be in violation of a particulate standard.

[26] Tr. 30–31, 50–51. See also "Isuzu Forms U.S. Firm to Sell Diesel Vehicles," *Automotive News*, June 1980, p. 2.

[27] Appendix A, § IV.

[28] Isuzu App., p. I–2; Tr. 11, 22, 23.

[29] Appendix A, § IV.

[30] My decision here does not address whether or not Isuzu would receive a waiver if it could meet the statutory NOx standard only by employing technology which would place upward pressure on particulates. If Isuzu encounters unforeseen difficulties in achieving a 1.0 gpm NOx standard through the use of a method which does not put upward pressure on particulates, Isuzu may request a reconsideration of this denial.

[31] Isuzu's situation is distinguishable from the situation of, for example, either Peugeot or VW in my last NOx waiver decision. See 45 FR 34718, 34722–3 (May 22, 1980). If I had denied Peugeot's waiver request, there was a significant risk that Peugeot would have increased its base EGR rate to attempt to achieve compliance with a 1.0 gpm NOx standard, and gone ahead with production since there were no durability or other significant difficulties associated with such an adjustment. This adjustment, however, would have increased particulate emissions. Thus, it was more protective of the public health to grant the waiver and preclude the necessity of increasing the EGR rate to meet a more stringent NOx standard.

In VW's case, if I had denied the waiver request, VW had significant incentives to go ahead with production utilizing "concepts" that employed EGR, since VW's data indicated that these concepts proved the most promising in terms of NOx emissions control. These "concepts" however, exhibited significantly higher particulate emissions than did the non-EGR "concepts" that VW planned to introduce in the waiver model years. Thus, in VW's case it was also more protective of the public health to grant the waiver, thereby limiting the likelihood that VW would decide it needs to use a concept employing EGR to attempt to meet a 1.0 gpm NOx standard.

[32] Clean Air Act, as amended, § 202(b)(6)(B)(ii) and (iii), 42 U.S.C. 7521(b)(6)(B)(ii) and (iii) (Supp. I 1977). See discussion accompanying footnotes 3–5 of my original decision at 5480.

[33] Appendix A, § IV, VI; Isuzu App. I–5, IV–1; and Tr. 13.

[34] Appendix A, § II. The technical analysis shows that vehicles in Isuzu's 1.8L engine family are capable of meeting the 1981 and later model year exhaust emission standards.

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NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

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H.R. 3292 / Pub. L. 96–366 Fish and Wildlife Conservation Act of 1980. (Sept. 29, 1980; 94 Stat. 1322) Price $1.25.

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